

Christopher Mixson (NV Bar#10685)
KEMP JONES, LLP
3800 Howard Hughes Parkway, Suite 1700
Las Vegas, Nevada 89169
702-385-6000
c.mixson@kempjones.com

Attorney for Plaintiffs

Roger Flynn, *Pro Hac Vice*
Jeffrey C. Parsons, *Pro Hac Vice*
WESTERN MINING ACTION PROJECT
P.O. Box 349, 440 Main St., #2
Lyons, CO 80540
(303) 823-5738
wmap@igc.org

Attorneys for Great Basin Resource Watch, Basin and Range Watch, and Wildlands Defense

Jamie Park, *Pro Hac Vice*
WESTERN WATERSHEDS PROJECT
P.O. Box 37198
Albuquerque, NM 87110-9998
(505) 750-0334
jaimie@westernwatersheds.org

Attorney for Western Watersheds Project

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BARTELL RANCH LLC, et al.,

Plaintiffs,

v.

ESTER M. MCCULLOUGH, et al.,

Defendants,

and

LITHIUM NEVADA CORPORATION,

Intervenor-Defendant

Case No.: 3:21-cv-80-MMD-CLB
(LEAD CASE)

**ORDER GRANTING JOINT MOTION
BY ENVIRONMENTAL PLAINTIFFS
AND FEDERAL DEFENDANTS FOR
STAY OF BRIEFING ON
PLAINTIFFS' MOTION FOR
ATTORNEYS' FEES AND EXPENSES**

WESTERN WATERSHEDS PROJECT, et al.,

Case No.: 3:21-cv-103-MMD-CLB
(**CONSOLIDATED CASE**)

Plaintiffs,

and

RENO SPARKS INDIAN COLONY,

Intervenor-Plaintiff,

and

BURNS PAIUTE TRIBE,

Intervenor-Plaintiff,

v.

UNITED STATES DEPARTMENT OF THE
INTERIOR, et al.,

Defendants,

and

LITHIUM NEVADA CORPORATION,

Intervenor-Defendant.

Plaintiffs Western Watersheds Project, et al. (WWP or Environmental Plaintiffs), and the Federal Defendants, the United States Bureau of Land Management et al. (BLM), file this Joint Motion and Status Report to continue the stay of briefing on WWP’s Motion for attorneys’ fees and expenses, in order to facilitate negotiations that may result in settlement of WWP’s fees Motion.

Pursuant to the Equal Access to Justice Act, 28 U.S.C. §2412 (EAJA), WWP filed its fees Motion on November 10, 2023 (ECF No. 309). In order to meet EAJA’s filing deadline, 28 U.S.C. §2412(d)(1)(B), and in support of potential settlement, WWP filed a “placeholder” fees motion, meeting the requirements of EAJA, while allowing the parties to pursue settlement and

1 avoid further briefing and evidence submittals while negotiations continue. *See Greenpeace v.*
2 *Stewart*, No. 17-35945, 2020 WL 2465321, *4-5 (9th Cir. Commissioner, May 12,
3 2020)(approving use of placeholder fees motion to facilitate settlement).
4

5 Pursuant to this Court's Order (ECF No. 317) approving WWP's and the Federal
6 Defendants' previous joint status report and motion to extend the deadlines regarding WWP's
7 fees Motion, this status report is due February 26, 2024.
8

9 WWP and the Federal Defendants are currently engaged in negotiations and propose that
10 briefing be continued to be stayed while these discussions are ongoing. In the event that a
11 settlement cannot be reached, WWP and the Federal Defendants further propose that WWP and
12 the Federal Defendants will inform the Court and, at that time, file a joint schedule to allow
13 WWP to amend its fees Motion and submit additional declarations and materials in support of its
14 Motion, as well as a schedule for the Federal Defendants' response and WWP's reply.
15

16 Accordingly, WWP and the Federal Defendants respectfully request that this Court issue
17 an Order such that:

- 18 1. Briefing on WWP's Motion continues to be stayed;
- 19 2. The parties will submit a status report on the potential settlement of WWP's
20 Motion within 60 days of the date of this Court's Order on this Joint Motion; and
21
- 22 3. If settlement cannot be reached, WWP and the Federal Defendants will file a joint
23 schedule for WWP to amend its Motion, and include additional declarations and materials in
24 support, as well as for the Federal Defendants' response and WWP's reply.

25 Respectfully submitted this 21st day of February, 2024.

26 /s/ Roger Flynn
27 Roger Flynn
28 Jeffrey C. Parsons
WESTERN MINING ACTION PROJECT
P.O. Box 349, 440 Main St., #2

1 Lyons, CO 80540
2 (303) 823-5738
3 roger@wmaplaw.org

4 *Attorneys for GBRW, BRW, WD*

5 Jamie Park *Pro Hac Vice*
6 WESTERN WATERSHEDS PROJECT
7 P.O. Box 37198
8 Albuquerque, NM 87110-9998
9 (505) 750-0334
10 jaimie@westernwatersheds.org

11 *Attorney for Western Watersheds Project*

12 Christopher Mixson (NV Bar#10685)
13 KEMP JONES, LLP
14 3800 Howard Hughes Parkway, Suite 1700
15 Las Vegas, Nevada 89169
16 702-385-6000
17 c.mixson@kempjones.com

18 *Attorney for Plaintiffs*

19 /s/ Michael K. Robertson (signed with permission)
20 Michael K. Robertson (DC Bar 1017183)
21 Trial Attorney, U.S. Department of Justice, Natural Resources Section
22 P.O. Box 7611
23 Washington, D.C. 20044-7611
24 202-305-9609
25 michael.robertson@usdoj.gov

26 *Attorney for Federal Defendants*

27 **CERTIFICATE OF SERVICE**

28 I hereby attest that I served the foregoing on counsel of record for all parties via the Court's CM/ECF system, this 21st day of February, 2024.

/s/ Roger Flynn

IT IS SO ORDERED.

DATED: February 22, 2024



CHIEF U.S. DISTRICT JUDGE
MIRANDA M. DU